

City of Portsmouth, NH
Mobile Vending From Municipal Spaces
Bid #27-22

INVITATION TO BID

Sealed bid proposals, plainly marked, “Bid #27-22 Mobile Vending From Municipal Spaces” on the outside of the mailing envelope, delivered to the front desk at City Hall, 1 Junkins Avenue, Portsmouth, New Hampshire, 03801, addressed to the Finance/Purchasing Department, will be accepted until **10:00 a.m., March 14, 2022** at which time all bids will be publicly opened and read aloud.

The City of Portsmouth has identified one location within the downtown from which it will permit vending from municipal parking spaces. This invitation is to elicit bids for mobile vending from a mobile vehicle (also known as a Food Truck, with vending from the side only) from one location. All other vending from municipal parking spaces is prohibited under ordinance. Minimum bid is \$5,000.00.

A copy of the bid specifications may be obtained at the City’s website: <http://www.cityofportsmouth.com/finance/purchasing.htm>. Addenda to this bid, if any, including written answers to questions, will be posted on the City of Portsmouth website. Addenda and updates will NOT be sent directly to vendors. Questions may be addressed, in writing, to the Purchasing Coordinator at purchasing@cityofportsmouth.com.

The City of Portsmouth reserves the right to reject any or all bid proposals, to waive technical or legal deficiencies, and to accept any proposal that it may deem to be in the best interest of the City.

City of Portsmouth, NH
Bid #27-22
“Mobile Vending From Municipal Spaces”

Bid Specifications

Introduction

In 2010 the Portsmouth City Council amended Chapter 6, Article XIII Section 6.1307 relative to motor vehicle vending from municipal parking spaces. Pursuant to the ordinance change:

- Vending from parking spaces shall be permitted only from approved spaces. Currently only one space is available: State Street. See Exhibit 1 to this bid;
- Vending from the State Street Space shall be permitted from April 15, 2022 to November 15, 2022 only;
- Vending Space shall be available to the highest qualified bidder; and
- There shall be a minimum bid price for use of the Vending Space

The vendor who submits the highest qualified bid for the space will have the opportunity to enter into a license agreement to vend from the municipal parking Space. The license will provide for vendor’s exclusive use of the Vending Space for that period. The license will have substantially those terms and conditions shown on the attached Exhibit 2 to this document. Vendors should review those terms and conditions carefully.

There has been no change to the City’s ordinances and policies relative to vending from the City’s sidewalks. This bid applies only to motor vehicles (not carts) and municipal parking spaces.

Instructions to Bidders: Addenda to this bid, if any, including written answers to questions, will be posted on the City website at <http://www.cityofportsmouth.com/finance/purchasing.htm>. Addenda and updates will NOT be sent directly to vendors. Vendors submitting a proposal should check the web site daily for addenda and updates after the release date. Vendors should print out, sign and return addenda with the proposal. Failure to do so may result in disqualification.

Submittal Requirements: Vendors must include:

1. A cover letter describing:
 - The motor vehicle vendor proposes to use along with an accompanying photograph(s);
 - The goods/food the vendor proposes to sell; and
 - The hours the vendor anticipates vending.
2. The Price Proposal Form;
3. A copy of any valid permits or licenses issued by the City of Portsmouth for vending of goods or food; and
4. A copy of any permits issued by the State of New Hampshire for vending of goods or food;

Vendor is not required to obtain local and state permits prior to submission of a bid, but will be required to obtain all state and local permits and licenses prior to execution of the license for the municipal parking space. Vendor may submit such additional information as it deems necessary or helpful to the City's evaluation process.

Disqualification: Vendor will be disqualified if:

- Vendor has a history of non-compliance with local and state regulations, ordinances and laws;
- Vendor's proposed motor vehicle, proposed method of servicing customers, or goods/food for sale raises health or safety concerns that cannot be reconciled through the license terms. By way of further guidance, it is imperative that vending be able to occur in a manner which does not create a risk for customers, vehicular traffic, the vendor or others, or create damage to City property.
- If food vending, if Vendor has within the last year had a health inspection that: yielded more than 2 critical item violations per inspection; or any repeat critical item violation(s); a total inspection score of less than 80; or if the Commissary named on the Commissary Agreement did not maintain an inspection score of 80 or greater;
- Vendor has a history of harassing, intimidating or threatening other vendors;
- If the bid proposal is on a form other than that furnished;
- If there are unauthorized additions, conditions or irregularities which may make the bid proposal incomplete, indefinite or ambiguous as to its meaning;
- If more than one proposal for the same work from an individual, firm, or corporation under the same or different name or there is evidence of collusion among bidders;
- Failure to submit all required information; or
- Disqualification is in the best interest of the City of Portsmouth.

By submitting a bid proposal, the vendor authorizes the City to undertake such investigation as may be necessary to verify the vendor's qualifications. The vendor may be requested to execute a release(s) in favor of third parties who have information relative to the vendor's qualifications. Refusal to execute a release may result in disqualification.

Delivery of Bid Proposals: When sent by mail, the sealed proposal shall be addressed to the City at the address and in the care of the official in whose office the proposals are to be received. All proposals shall be filed prior to the time and at the place specified in the invitation for bid proposals. All bid proposals should be plainly marked on the outside of the envelope "Bid #27-22 Mobile Vending from Municipal Spaces". Proposals received after the time for opening of the proposals will be returned to the vendor, unopened. Faxed proposals are NOT acceptable.

Withdrawal of Bid Proposals: A proposal may be withdrawn prior to execution of License.

Reservation of Rights: The City of Portsmouth reserves the right to reject any or all bids to waive technical or legal deficiencies, and to accept any proposal that it may deem to be in the best interest of the City.

Exhibit 2

LICENSE TO VEND FROM MUNICIPAL PARKING SPACES

The City of Portsmouth, a municipal corporation with a principal place of business of 1 Junkins Avenue, Portsmouth, New Hampshire (hereinafter “City”), for the License Fee of {*INSERT BID AMOUNT*} hereby grants this revocable license to {*VENDOR NAME AND ADDRESS*} (hereinafter “Licensee”) to allow the vending of goods and/or food from the municipal parking spaces shown on Exhibit 1 (hereinafter “Vending Space”) in accordance with the following terms and conditions:

1. This license authorizes the vending of goods/food from the Vending Space for the period of April 15, 2022 to November 15, 2022.
2. Vending shall be from only that vehicle described as follows: {insert description of vehicle – e.g. the vehicle licensed by the City of Portsmouth VIN # _____, License Plate #:_____}. Should Licensee seek to vend from a different vehicle, Licensee shall seek the written consent of the City and such vehicle shall be inspected and licensed by the Health Department. Such consent shall not be unreasonably withheld. Requests shall be directed to the City Manager.
3. The Licensee agrees to maintain the vehicle described in the proceeding paragraph in good condition and to vend from it only those items/foods which vendor is lawfully allowed to vend in accordance with local and state permits.
4. Licensee agrees to keep the Vending Space in a clean and sanitary condition at all times and to comply with any reasonable requests of the City with respect to maintenance of the area. Receptacles for trash shall be made available to customers and removed by Licensee when the vendor departs the Vending Space each day.
5. Licensee must comply at all times with all other applicable State and local ordinances specifically including those relative to vending and health safety. Motor vehicle shall be properly registered at all times and Licensee shall provide proof of registration if requested by the City.
6. Licensee and/or operators of the vehicle shall maintain at all times such State and local permits and licenses as are required. Nothing in this license diminishes, negates, changes or alters the authority of the Health Department or any other department relative to licenses and permits issued by it. Such other agencies and departments shall have all remedies available to it under law.

7. If food vending, it shall be grounds for revocation under paragraph 15, if an inspection by the Health Department yields: (1) more than 2 critical item violations per inspection; or (2) any repeat critical item violation(s), (3) a total inspection score of less than 80, or (4) if the Commissary named on the Commissary Agreement does not maintain an inspection score of 80 or greater, or (5) vendor failed to sign in to Commissary on day of inspection, or on any day of operation, or (6) vendor protests/refuses inspection.
8. Licensee shall not harass, intimidate or threaten other vendors.
9. Payment of the License Fee shall be made in two equal installments. The first payment shall be prior to first use of the Vending Space or by April 30, whichever occurs first. The second payment shall be no later July 15.

Checks shall be made payable to the City of Portsmouth and directed to the attention of the Parking Clerk, City of Portsmouth, 1 Junkins Avenue, Portsmouth, NH 03801.

10. Licensee hereby agrees to indemnify and hold harmless the City and its respective officials, employees and agents from any and all liability of any kind associated in any way with the exercise of the rights granted under this license. This obligation shall survive the termination of this License.
11. The Licensee agrees to maintain not less than \$1,000,000.00 per occurrence in general liability insurance covering Licensee's activities within and use of the Vending Space and naming the City as an additional insured. A certificate indicating the existence of this insurance shall be kept on file with the City Clerk at all times.
12. This license is not transferrable or assignable without the written consent of the City.
13. Licensee shall not operate from the Vending Space before 7:00 a.m. or after 11:00 p.m. without the written consent of the City.
14. Licensee agrees to cooperate with the City in the event that the City needs to undertake temporary maintenance or construction within the Vending Space or to make available the area for a special event. For example, in the event of a necessary water line repair, vending from the space might have to be suspended for a short period of time. In such instance, the City is prepared to try to identify an alternative temporary location for vending or to refund/credit an equitable portion of the License Fee.
15. Both the City and Licensee acknowledge that conditions may arise that might require a permanent relocation of the vending space. The City may, for good cause and upon reasonable notice, assign Licensee a different vending space in the downtown area. The City and Licensee shall in the first instance

attempt to identify a mutually agreeable alternative Vending Space. Should Licensee object to the alternative location, Licensee without penalty may terminate the License and, if Licensee has already paid all or a portion of the Franchise Fee, an equitable portion of the fee already paid for the Vending Spaces will be refunded.

- 16. This license may be revoked if Licensee fails to abide by the obligations set forth in this License. Licensee will be provided with notice of any deficiency and an opportunity to cure. Such cure period shall be seven (7) days except in the event of a serious health or safety violation, in which case the cure period shall be immediate. There shall be no refund of the License Fee paid to date of revocation.
- 17. Any damages sustained by Licensee for breach of this License shall be limited to refund of any fees paid.
- 18. Licensee agrees that it shall reimburse the City for the cost of remediating any situation caused by failure of the License to comply with this License, including but not limited to the cost of cleaning or repairs necessitated by Licensee's negligent actions or use of the Vending Space in a manner inconsistent with the terms of this License.
- 19. At the City's discretion, this License may be renewed for an additional one-year term.

CITY OF PORTSMOUTH

Dated: _____

By: _____
Karen S. Conard, City Manager

Dated: _____

By: _____